

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

JOSEPH R. HESS

PLAINTIFF

v.

No. 3:20-cv-51-DPM

PARAGOULD POLICE
DEPARTMENT; CHRISTIAN
UNDERWOOD; and DOES

DEFENDANTS

ORDER

1. Motion to proceed *in forma pauperis*, Doc. 12, granted; Hess can't afford to pay the filing fee.

2. Hess has submitted his amended complaint and a supplement. Doc. 6 & 7. He says he's not guilty of the DWI that led to his revocation and confinement at the Greene County Detention Center. Doc. 7. He says he was harassed and treated inhumanely while at the Detention center. Doc. 1. And he claims that Underwood and other officers used excessive force when they arrested him on another occasion for public intoxication. Doc. 1 & 6. The Court must screen these claims. 28 U.S.C. § 1915A.

3. Hess's claims against the Paragould Police Department are dismissed without prejudice. The Department isn't subject to suit under § 1983. *Ketchum v. City of West Memphis, Arkansas*, 974 F.2d 81, 82 (8th Cir. 1992).

4. Hess's request to be released from the Detention Center is now moot. *Doc. 8*. And his claim that he was wrongfully revoked is *Heck*-barred. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). A judgment in Hess's favor would necessarily call into question his revocation; and Hess hasn't alleged that the revocation has been reversed, expunged, or invalidated. *Ibid.*; *Newmy v. Johnson*, 758 F.3d 1008 (8th Cir. 2014).

5. Hess's claim about harassment and inhumane treatment in the Detention Center is not properly joined here. If Hess wants to pursue those claims, then he must do so in a separate lawsuit.

6. Hess says that Underwood and the Doe Defendants used excessive force when they maced him during an arrest for public intoxication. *Doc. 6*. This is a plausible claim with adequate particulars. The Court directs the Clerk to prepare a summons for Underwood. The United States Marshal shall serve the complaint, amended complaint, supplement, summons, and this Order on Underwood without prepayment of fees and costs or security. Underwood should be served through the Paragould Police Department, 101 North 3 ½ Street, Paragould, Arkansas 72450.

If Hess wants to pursue his excessive force claim against the unidentified officers, then he must identify them and give the Court an address for service. If he doesn't do so by 30 June 2020, then his claims against the Doe Defendants will be dismissed without prejudice. *FED. R. CIV. P. 4(m)*; *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993).

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

5 May 2020